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10/518,837	12/21/2004	Maaike Wegman	NL020604	1261

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EXAMINER	
PHONGSVIRAJATI, POONSIN	
ART UNIT	PAPER NUMBER
3686	
MAIL DATE	DELIVERY MODE
10/21/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/518,837	WEGMAN, MAAIKE	
	Examiner	Art Unit	
	SIND PHONGSVIRAJATI	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-9 and 11-21* is/are pending in the application.

4a) Of the above claim(s) *none* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-9 and 11-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. In response to the communications filed on 06/08/2009, applicant's request for reconsideration of the finality of the rejection of the last Office action, dated 04/15/2009, is persuasive and, therefore, the finality of that action is withdrawn.

2. This supplemental final action will address the claims entered on 06/08/2009.

Claim Objections

3. The claim objections to claims 16 and 18 are withdrawn given Applicant's corrections.

Specification

4. The objection to the specifications is hereby withdrawn given Applicant's deletion of Amendment A of December 31, 2008.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. The 112(2) rejections from the previous office action to claims 7, 14, 16, and 18 have been withdrawn given Applicant's amendments.

7. Claims 2, 4-9, 11, 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. As to Claims 6 and 20, claims 6 and 20 recite numerous limitation stating, "experiencing a medical care activity", however, it is indefinite to the scope on how one would be "experiencing a medical care activity". In other words, is the Applicant claiming the state of mind of the user viewing the viewpoint on the display? Would the user experience the medical care activity by viewing a display that contains audio and video of any one of the viewpoint of: a patient experiencing the medical care, an operator of the medical care equipment, a spectator, or an inside of the selected medical care equipment to see what happens inside the medical care equipment during the medical care activity? Would the user simply be experiencing a medical care activity by viewing a photographic representation of the selected medical care equipment? For purposes of examination, any one of the above interpretations will be considered in experiencing a medical care activity relative to the prior art.

Claims 2, 4-5, 7-9, 11, 18-19, and 21 claim dependencies from either claims 6 and 20 and are rejected under 112(2) under the same rationale. Additional clarification is requested.

9. Claim 17 recites the limitation "the sounds that an MRI device makes" in line 4 of claim 17. Claim 17 claims dependency from claim 16 which claims dependency from claim 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. The 101 rejection to claims 1-9, 11-19 are hereby withdrawn given Applicant's amendments.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 3, 6, 2, 5, 8, 11, 18, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546).

14. As to **Claim 3**, Maeda teaches a method of enabling a person to obtain information about medical care equipment, the method comprising: on a display device of a user interface generating display: offering the person an option to indicate a model of equipment (col. 10 line 5-8, col. 24 lines 8-27, Fig. 6-8), offering the person an option to select a viewpoint, offering an option to generate a sequence of two-dimensional views depicting the equipment performing an activity (Fig. 5, col. 9 lines 39-50, col. 19 lines 59 to col. 20 line 22); from a database which stores three-dimensional representations of a plurality of models of medical care equipment, retrieving a three-dimensional representation of the indicated equipment (col. 6 lines 39-56) ; and from the three-dimensional representation retrieved from the database, generating and displaying on the display device, the series of two-dimensional views depicting the selected models of equipment performing the selected activity from the selected viewpoint (col. 17 lines 28-45, col. 20 lines 1-15). But Maeda does not specify the equipment as medical care equipment. Bodor does teach producing and storing three dimensional images of equipment that comprises medical devices and equipment (Bodor, Abstract, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in the form of two and three-dimensional images to further include medical devices and equipment. One would have been motivated to further comprise medical devices and

equipment since the systems described by Maeda and Bodor are equally applicable to various apparatuses (Bodor, col. 17 lines 36-47).

15. As to **Claims 6 and 21**, Maeda teaches a method enabling a person to obtain information on equipment, the method comprising: on a display device of a user interface, generating a display offering the person an option to select equipment via the user interface, on the display device (col. 10 line 5-8, col. 24 lines 8-27, Fig. 6-8), generating a display offering the person an option to select via the user interface among at least two of: experiencing an activity by the selected equipment from a viewpoint of a patient experiencing the activity (col. 6 lines 50-56, col. 6 line 65 to col. 7 line 6, col. 24 lines 13-18, it is noted that the viewpoint from either the patient, operator, or spectator may certainly be the same viewpoint), experiencing a, activity by the selected equipment from a viewpoint of an operator of the equipment (col. 6 lines 50-56, col. 6 line 65 to col. 7 line 6, col. 24 lines 13-18, it is noted that the viewpoint from either the patient, operator, or spectator may certainly be the same viewpoint), experiencing an activity by the selected equipment from a viewpoint of a spectator (col. 6 lines 50-56, col. 6 line 65 to col. 7 line 6, col. 24 lines 13-18, it is noted that the viewpoint from either the patient, operator, or spectator may certainly be the same viewpoint), and experiencing an activity by the selected equipment from a viewpoint of an inside of the selected equipment to see what happens inside the equipment during the activity (col. 6 lines 50-56, col. 6 line 65 to col. 7 line 6, col. 24 lines 13-18, it is noted that the viewpoint from either the patient, operator, or spectator may certainly be the same

viewpoint); in response to receiving an indication of the selected equipment, retrieving from a database comprising three-dimensional electronic representations of equipment, a three-dimensional electronic representation of the selected equipment (Fig. 5, col. 9 lines 39-50, col. 19 lines 59 to col. 20 line 22); and generating two-dimensional views depicting the selected equipment during the activity from the selected viewpoint of the selected three-dimensional representation and displaying the two-dimensional views on the display device such that a viewer watching the display device (Fig. 5, col. 9 lines 39-50, col. 19 lines 59 to col. 20 line 22). But Maeda does not specify the equipment as medical care equipment. Bodor does teach producing and storing three dimensional images of equipment that comprises medical devices and equipment (Bodor, Abstract, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in the form of two and three-dimensional images to further include medical devices and equipment. One would have been motivated to further comprise medical devices and equipment since the systems described by Maeda and Bodor are equally applicable to various apparatuses (Bodor, col. 17 lines 36-47).

16. As to **Claim 2**, Maeda teaches the method as claimed in claim 6, further including: on the display device, generating a display offering an option to change a configuration of the selected equipment (col. 21 lines 1-5), adjusting the retrieved three-dimensional electronic representation of the equipment in accordance with the changed

configuration (col. 21 lines 6-23), generating the two-dimensional views of the equipment in the changed configuration from the adjusted three-dimensional electronic representation (col. 21 lines 6-23). But Maeda does not specify the equipment as medical care equipment. Bodor does teach producing and storing three dimensional images of equipment that comprises medical devices and equipment (Bodor, Abstract, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in the form of two and three-dimensional images to further include medical devices and equipment for the same motivation as claim 6.

1. As to **Claim 5**, Maeda does not specifically disclose a method as claimed in claim 1, wherein the medical care equipment comprises a medical examination device. Bodor does teach wherein the medical care equipment comprises a medical examination device (Bodor, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in the form of two and three-dimensional images to further include medical equipment further comprising devices for the same motivation as explained above in claim 1.

2. As to **Claim 18**, the combination of Maeda and Bodor teaches a method as claimed in claim 6 further including: allowing the person to become familiar with the

medical care equipment at a speed selected by the person who has the prospect of undergoing a medical care activity with medical care equipment (Abstract).

3. As to **Claim 8**, Maeda teaches the method as claimed in claim 6, further including: on the display device, generating a display offering the person the option to select facial characteristics of himself or herself; on the depicted patient (col. 3 lines 7-9).

4. As to **Claim 11**, Maeda does not specifically teach the method as claimed in claim 8, wherein the two- dimensional view further includes a hyperlink to further information on the selected medical care equipment. Bodor does teach of internet hyperlinks being incorporated into any form of model (col. 17 lines 22-31).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a hyperlink to further information on the selected medical care equipment. One would have been motivated to include a hyperlink to link information regarding the model (Bodor, col. 17 lines 36-47).

5.

17. Claims 4, 7, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546) in further view of Levy (US 6,731,324).

18. As to **Claims 4 and 7**, the combination of Maeda and Bodor does not specifically disclose the method as claimed in claim 6, wherein the database includes an electronic representation of audio information relating to the selected medical care equipment and wherein the audible information comprises operating sound of the indicated medical examination device during a medical care activity and further including: retrieving the audio information; and converting the audio information into audible sound and playing the sound audibly to the viewer. Levy does teach wherein the database includes an electronic representation of audio information relating to the selected medical care equipment and wherein the audible information comprises operating sound of the indicated medical examination device during a medical care activity (Levy, Abstract, col. 4 lines 50-64, col. 5 lines 4-25) and further including: retrieving the audio information (col. 8 lines 56-63); and converting the audio information into audible sound and playing the sound audibly to the viewer (Levy, col. 9 lines 1-8).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature of sound recognition and playback of a medical device or equipment as taught by Levy within the teachings of Maeda and Bodor. One would have been motivated to include audio information to assist in such services as troubleshooting, instrument installation assistance, technique monitoring and training, and technical training (Levy, col. 2 lines 1-6).

19. As to **Claim 12 and 13**, Maeda teaches the method as claimed in claim 3, further including: generating a voice audible to the person describing elements of the activity

(col. 21 lines 31-33) but Maeda, nor the combination of Maeda and Bodor, specifically discloses sounds which can be heard by a patient during the medical care activity and generating sounds which are heard by a patient during the medical care activity such that the person can view and hear the medical care activity. Levy does teach the information comprising audible and visual information relating to the indicated medical care equipment and wherein the audible information comprises operating sound of the indicated medical examination device audible to the person (Levy, Abstract, col. 3 lines 14-19, col. 5 lines 26-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature of sound recognition of a medical device or equipment as taught by Levy within the teachings of Maeda and Bodor. One would have been motivated to include audio information to assist in such services as troubleshooting, instrument installation assistance, technique monitoring and training, and technical training (Levy, col. 2 lines 1-6).

20. As to **Claim 14**, Maeda teaches the method as claimed in claim 13, the selected viewpoint is inside the equipment such that the person visually and audibly experiences the activity (col. 6 lines 57-64, col. 7 lines 14-18).

21. As to **Claim 15**, Maeda teaches the method as claimed in claim 13, further including: on the display device, generating a display offering the person the option to select facial characteristics of himself or herself; and wherein generating the sequence

of two-dimensional views includes a depiction of a patient with the selected facial characteristics undergoing the activity (col. 3 lines 7-9).

22. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546) in further view of Brown (US 6,168,563).

23. As to **Claim 16**, the combination of Maeda and Bodor teaches the two-dimensional view generating step includes generating a series of two-dimensional views depicting operation of the medical care equipment to perform a medical care activity (Abstracts). But the combination of Maeda and Bodor does not specifically disclose at least one of the generated two-dimensional views on the display device includes the operator control buttons which the buttons may be activated by the user to control the operation of medical care equipment; and the series of two-dimensional views depicts operation of the medical care equipment in response to activation of the operator control buttons. Brown does teach at least one of the generated two-dimensional views on the display device includes the operator control buttons which the buttons may be activated by the user to control the operation of medical care equipment; and the series of two-dimensional views depicts operation of the medical care equipment in response to activation of the operator control buttons (col. 6 lines 46-61). It would have been obvious to one of ordinary skill in the art at the time of the invention to have generating a display for the operator control buttons with which the buttons may be activated by the

user to control the operation of medical care equipment for the same motivation as claim 3.

24. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546) in further view of Brown (US 6,168,563) and Levy (US 6,731,324).

25. As to **Claim 17**, the combination of Maeda, Bodor, and Brown does not specifically disclose the medical care equipment being an MRI device. However, choosing an MRI device as the medical care equipment would have been obvious to try since choosing an MRI device would be choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success. It would have been obvious to one of ordinary skill in the art at the time of the invention to have choose an MRI device as the medical care equipment within the disclosures of Maeda, Bodor, and Levy since choosing an MRI device would merely be choosing from a finite number of identified, predictable solutions.

The combination of Maeda, Bodor, and Brown does not specifically disclose further including: generating the sounds that an MRI device makes while performing the MRI examination. Levy does disclose generating visual and audio communications of a medical device (Levy, col. 9 lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature of sound recognition and playback of a medical device or equipment as taught by Levy within the teachings of

Maeda and Bodor. One would have been motivated to include audio information to assist in such services as troubleshooting, instrument installation assistance, technique monitoring and training, and technical training (Levy, col. 2 lines 1-6).

26. Claim 9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546) in further view of Admitted Prior Art (APR).

27. As to **Claim 9**, the combination of Maeda and Bodor teaches a method as claimed in claim 6, wherein the first step indication is used for the selection of a three-dimensional representation of the indicated medical care equipment. But Maeda and Bodor do not specifically disclose on the display device, generating a display offering the person the option to include the name of a medical care location, the database being indexed by medical care location, which medical care location is used in retrieving the three-dimensional electronic representation of the selected medical care equipment such that the person can view the medical care equipment which is at the selected medical care location. However, the ability to search for medical care equipment by the name of a medical care location is well known in the art, and official notice to that effect is hereby taken. Because Applicant failed to adequately traverse the official notice to the last office action, the official notice is considered to be Applicant admitted prior art (MPEP 2144.03(C)). It is also noted that the limitation regarding, “such that the person can view the medical care equipment which is at the selected medical care location”, is

considered intended use and therefore will not be given patentable weight (MPEP 2106(II)(C))

It would have been obvious to one of ordinary skill in the art at the time of the invention to include adding a criteria to a search query in order to offer a person the option to include the name of a medical care location in order to narrow the search results in the selection of the indicated medical care equipment. One would have been motivated to offer a person the option to include the name of a medical care location so as to select the correct medical care equipment for three-dimensional representation at the desired medical care location.

28. As to **Claims 19 and 20**, claims 19 and 20 substantially recite similar limitations to claims 6, 2, 4, 5, 7, 8, 11, 9, 18, and 21 and are rejected using the same reasoning and rationale.

Response to Arguments

29. Applicant's arguments filed 06/08/2009 have been fully considered but they are not persuasive.

Applicant argues:

> Maeda and Bodor show that those of ordinary skill in the art would possess the skill to configure equipment to perform the method of claim 6, i.e., that the present application is enabling. But neither Maeda nor Bodor, nor the combination thereof place the method of claim 6 in the possession of the reader. The methods of Maeda and Bodor work in different ways for different purposes to achieve different end results and perform different methods than the method of claim 6. The method of claim 6 enables a viewer to experience a selected medical care activity from the viewpoint of the patient, the operator, an observer, or from the interior of the machine.

Examiner respectfully disagrees, however, assuming, *en arguendo*, that the disclosures of Maeda and Bodor does not intend to solve the same problem as the Applicant. The Supreme Court in KSR reaffirmed the familiar framework for determining obviousness as set forth in Graham v. John Deere Co. (383 U.S. 1, 148 USPQ 459 (1966)), but stated that the Federal Circuit had erred by applying the teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic way. KSR, 550 U.S. at ___, 82 USPQ2d at 1391. Specifically, the Supreme Court stated that the Federal Circuit had erred in four ways**: (1) "by holding that courts and patent examiners should look only to the problem the patentee was trying to solve " (Id. at ___, 82 USPQ2d at 1397); (2) by assuming "that a person of ordinary skill attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem" (Id.);**

(emphasis added) (3) by concluding "that a patent claim cannot be proved obvious merely by showing that the combination of elements was obvious to try'" (Id.); and (4) by overemphasizing "the risk of courts and patent examiners falling prey to hindsight bias" and as a result applying "[r]igid preventative rules that deny factfinders recourse to common sense" (Id.) (MPEP 2141). The disclosures of Maeda and Bodor teaches of replicating the environment and equipment that the user selects (Maeda, col. 6 lines 50-64, Bodor, col. 1 lines 59-62). Additionally, as indicated in the above rejections, Examiner interprets that the patient, operator, and an observer may all have the same viewpoint. For example, a patient, operator, and an observer may have the same viewpoint walking into an MRI room.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. P./
Examiner, Art Unit 3686

15 October 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686